

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-828-C - ORDER NO. 95-1242 ✓
JUNE 14, 1995

IN RE: Joint Petition for Approval of a) ORDER APPROVING
 Merger of LCI Telecom South, Inc.) REQUEST TO WITHDRAW
 into LCI International Telecom) APPLICATION
 Corporation.)

This matter originally came before the Public Service Commission of South Carolina (the Commission) on the Joint Petition for approval of LCI International Telecom Corporation (LCIT) and LCI Telecom South, Inc. (LTS), who requested Commission approval of a transaction whereby LTS will merge into and with LCIT. LCIT and LTS are both wholly-owned subsidiaries of LCI International Management Services, Inc. (LCIM). LCIT will be the surviving corporation of the contemplated merger between LCIT and LTS. The joint petitioners now come before the Commission, seeking to withdraw their Application, based on the transaction being a possible business reorganization, potentially not approvable by the Commission, as are sales, mergers, etc.

Upon original analysis, this merger appeared to the Staff to come under the auspices of S.C. Code Ann. §58-9-310 (1976), which states that:

No telephone utility, without the approval of the Commission after due hearing and compliance with all other existing requirements of the laws of the State, and relation thereto shall... merge its property,

powers, franchises or privileges, or any of them....

Upon further reflection, however, we agree that the transaction appears to be not so much a merger as a business reorganization. Indeed as the Petition notes, the parent corporation, LCIM will continue to maintain its existence, as will LCIT. All assets and liabilities of LTS will be transferred to LCIT. Although both LCIT and LTS are certificated carriers pursuant to the Commission authority, the end result of this transaction will simply be the disappearance of LTS. According to the Petition, the transaction will be seamless to the two Companies' customers.

The Commission has examined this matter and believes that a business reorganization such as the one involved in the case at bar may not necessarily be subject to Commission approval under §58-9-310 (1976). We have examined the facts of the case at bar and do not believe our approval is necessary under these facts. Therefore, the Commission believes that the relief requested by the Applicant should be granted, and that it be allowed to withdraw its Application. In the future, we will examine such transactions on a case-by-case basis to determine the necessity of our approval.

We further note that LTS seeks to surrender its Certificate to the Commission as a portion of the transaction. Although we have allowed the Applicant to withdraw its Application in this matter, we also believe that judicial economy should allow surrender of the Certificate of LTS. We therefore believe LTS should be allowed to surrender its Certificate to the Commission at such time as it

merges into LCIT.

IT IS THEREFORE ORDERED THAT:

1. The request to withdraw the Application in this matter is approved.

2. LTS shall be allowed to surrender its Certificate upon completion of the reorganization.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)